

### **REMARKS**

This is in response to the Office Action mailed on June 29, 2004.

No claims are amended, no claims are canceled, and no claims are added; thus, claims 1-24 remain pending in this application.

#### **Double Patenting Rejection**

Claims 1-7, 9-11, 16-17 and 22 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27-29 and 31-51 respectively of U.S. Patent No. 6,690,972. Applicant will consider filing a Terminal Disclaimer when the claims are otherwise found to be in condition for allowance. The Examiner is invited to call Applicant's below-named representative to address this issue when the claims are otherwise found to be allowable.

#### **§103 Rejection of the Claims**

In the Office Action, claims 16-17 and 19-23 were rejected under 35 USC § 103(a) as being unpatentable over Vollmann et al. (U.S. Patent No. 4,726,380) in view of Paisner (U.S. Patent No. 5,810,740). Applicant respectfully traverses the rejection at least for the following reasons.

With respect to independent claim 16, Applicant is unable to find, in the cited portions of Vollmann et al. and Paisner, a fair suggestion of a system that includes means for determining whether entered parameters for a programmable medical device acceptably interact with each other according to a set of rules, and means for providing a visual indicator based on entered parameters and the set of rules, including means for providing a visual indicator of a first color for one or more acceptable parameters, means for providing a visual indicator of a second color for one or more allowable parameters indicating a warning to use discretion with respect to interaction of the allowable parameters to other entered parameters, and means for providing a visual indicator of a third color for one or more unacceptable parameters, as recited in the claim.

Claims 17 and 19-22 depend either directly or indirectly on claim 16, and are believed to be allowable at least for the reasons provided with respect to claim 16.

Applicant respectfully asserts that the suggestion to combine the references must be found in the references. Applicant is unable to find a suggestion in either Vollmann et al. or Paisner to combine the automatic programmer lockouts in Vollmann et al. with a color channel quality indicator for an ECG signal channel in Paisner. Furthermore, even if Vollmann et al. is combined with Paisner, the combination still fails to teach or suggest using a first color and/or first icon to indicate one or more parameters for the programmable medical device that acceptably interact, a second color and/or second icon to indicate one or more allowable parameters indicating a warning to use discretion with respect to interaction of the allowable parameters to other entered parameters for the programmable medical device, and a third color and/or third icon to indicate one or more parameters for the programmable medical device that unacceptably interact, as specifically recited by the language in the claims.

The Office Action states: *Paisner teaches that the colored indicators provide a universally and quickly understood indication of status or quality.* Applicant is unable to find a teaching of a universally and quickly understood indication of status or quality in the cited portion of Paisner, and thus traverses this assertion. The cited portion of Paisner refers to channel quality indicators, where a green square represents a channel quality percentage greater than 85%, a yellow square represents a channel quality percentage of 70 to 85% and a red square represents a channel quality percentage of less than 70%. Applicant respectfully requests that the Examiner cite references in support of this assertion.

The Office Action states: *It would have been an obvious design choice to one with ordinary skill in the art at the time the invention was made to employ a check for the green icon, a warning icon for the yellow icon, and a stop sign for the red icon, since these symbols are universally and quickly understood indicator, and would provide an additional indication means for those whom may be color blind.* This assertion is not supported by a reference, and thus appears to be based on personal knowledge. Applicant respectfully traverses this assertion, and requests that the Examiner cite references in support of this assertion.

With respect to independent claim 23, Applicant is unable to find, in the cited portions of Vollmann et al. and Paisner, a fair suggestion of a system comprising means for identifying

parameter interactions between feature parameters, means for defining a plurality of messages, where the plurality of messages includes a first type of message, a second type of message and a third type of message, where the first type of message indicates correctness, the second type of message warns of a parameter interaction and the third type of message warns of impermissible parameter settings, means for associating each of the parameter interactions with one of the message types, means for accepting a parameter value, means for examining the parameter value to determine if it causes parameter interaction, and means for displaying a message of the message type associated with the parameter interaction if the parameter value causes a parameter interaction, as recited in the claim. Should the rejection be maintained, Applicant respectfully requests the next Action to specifically apply the claim language against the cited portion of Vollman et al. to aid Applicant to judge the propriety of continuing the prosecution (37 CFR § 1.104 (a)(2)). For example, please identify the portion / elements of Vollman et al. relied upon as showing a first, second and third message type, as recited in the claim.

Claim 24 was rejected under 35 USC § 103(a) as being unpatentable over Vollmann et al. (U.S. Patent No. 4,726,380). Claim 24 depends on claim 23, and is believed to be allowable at least for the reasons provided with respect to claim 23.

*Allowable Subject Matter*

Claims 8, 12-15 and 18 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully submits that the base claims of these claims are in condition for allowance, and thus these claims are also in condition for allowance.

Claims 1-7 and 9-11 were indicated to be allowable if rewritten to overcome the Double Patenting rejection(s) set forth in this Office Action, or upon proper filing of a Terminal Disclaimer. When the claims are otherwise in condition for allowance, the Examiner is invited to call Applicant's representative to request a Terminal Disclaimer.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance if a Terminal Disclaimer is filed, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (651) 253-6550 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

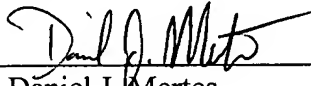
Respectfully submitted,

VICKIE L. CONLEY ET AL.

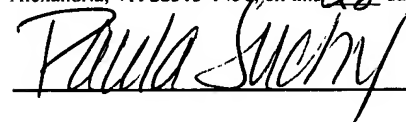
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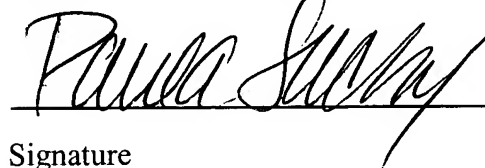
Date 9/28/04

By   
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28 day of September, 2004.



Name



Signature